

3110

MONTANA SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL

DATE 2.22.07

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JOHN ESP (R)	✓		
SEN. KELLY GEBHARDT (R)	✓		
SEN. BOB HAWKS (D)	✓		
SEN. CAROL JUNEAU (D)	✓		
SEN. RICK LAIBLE (R)	✓		
SEN. LYNDA MOSS (D)	✓		
SEN. TERRY MURPHY (R)	✓		
SEN. JERRY O'NEIL (R)	✓		
SEN. MITCH TROPILA (D)	✓		
SEN. CAROL WILLIAMS (D)			✓
SEN. KIM GILLAN (D) - CHR	✓		
LEANNE HEISEL - LSD	✓		
MARI SCHREINER - SECRETARY	✓		



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Joint Resolution 26** (first reading copy -- white) **do pass as amended**.

Signed: _____


Senator Kim Gillan, Chair

And, that such amendments read:

1. Page 1, line 13.

Following: "regulations"

Strike: "has"

Insert: "and a lack of a clear and fair city-county planning process to guide annexations have"

2. Page 1, line 25.


Strike: "overlaps"

Insert: ", planning, and annexation laws overlap"

- END -

Committee Vote:

Yes 8, No 2

Fiscal Note Required — 

411329SC.ssc



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 527** (first reading copy -- white) **do pass as amended.**

Signed: _____

A handwritten signature in black ink, appearing to read "Kim Gillan", is written over a horizontal line.

Senator Kim Gillan, Chair

And, that such amendments read:

1. Page 1, line 14.

Following: the first "chapter"

Insert: "or on lots within incorporated cities and towns"

- END -

Committee Vote:

Yes 10, No 1

Fiscal Note Required _____

A handwritten mark, possibly initials or a signature, is written in black ink.

411333SC.ssc



Corrected
Copy

SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 398** (first reading copy -- white) do pass as amended.

Signed: _____

Kim Gillan

Senator Kim Gillan, Chair

And, that such amendments read:

1. Page 1, line 23.

Following: "subsection (2) (a)"

Insert: "(i)"

2. Page 1, line 25.

Strike: "20-year"

Following: "need"

Insert: ", for a period not to exceed 20 years,"

3. Page 1, line 26.

Strike: "county"

Insert: "proposed area to be zoned"

- END -

Committee Vote:

Yes 9, No 1

Fiscal Note Required ____

411509SC.ssc



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 398** (first reading copy -- white) **do pass**.

Signed: 
Senator Kim Gillan, Chair

- END -

Committee Vote:

Yes 9, No 1

Fiscal Note Required K7

411330SC.ssc



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 503** (first reading copy -- white) **do pass as amended.**

Signed: _____


Senator Kim Gillan, Chair

And, that such amendments read:

1. Page 2, line 10.

Strike: "except" through "(7)(d),"

2. Page 2, line 25.

Strike: "all"

Insert: "the owners of"

Strike: "owners"

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required — 

411331SC.ssc



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 2

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 451** (first reading copy -- white) **do pass as amended.**

Signed: _____

Senator Kim Gillan, Chair

And, that such amendments read:

1. Title, line 4.

Strike: "MUNICIPALITIES"

Insert: "A LOCAL GOVERNMENT"

2. Title, lines 5 and 6.

Following: "AUTHORIZING" on line 5

Strike: remainder of line 5 through "ON" on line 6

Insert: "LOCAL GOVERNMENTS TO EXECUTE A LIEN ON DEBRIS REMOVAL"

Following: "PROCEEDS;"

Strike: "AND"

3. Title, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE"

4. Page 1, lines 15 and 16.

Following: "A" on line 15

Strike: remainder of line 15 through "other" on line 16

Insert: "local government may execute a lien on the portion of insurance proceeds for debris removal if it is determined that the underlying property is worth less than the cost of debris removal and an"

5. Page 1, line 21 through page 2, line 7.

Strike: sections 2 and 3 in their entirety

Insert: "NEW SECTION. Section 2. Effective date. [This act]

Committee Vote:

Yes 8, No 3

Fiscal Note Required _____

411332SC.ssc

is effective on passage and approval."

Insert: "NEW SECTION. **Section 3. Applicability.** [This act]
applies to insurance policies entered into or renewed on or after
[the effective date of this act]."

- END -



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 338** (first reading copy -- white) **do pass**.

Signed: *Kim Gillan*
Senator Kim Gillan, Chair

- END -

Committee Vote:

Yes 6, No 5

Fiscal Note Required *KJ*

411334SC.ssc



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 160** (first reading copy -- white) do pass as amended.

Signed: *Senator Kim Gillan*
Senator Kim Gillan, Chair

And, that such amendments read:

1. Page 1.

Following: line 8

Insert: "WHEREAS, Montana's senior citizens and persons with disabilities rely on human service agencies and public transportation systems for essential transportation to work, health care services, and recreation; and

WHEREAS, these transportation services and systems can be expanded by using state funding, known as Transportation Assistance for the Disabled and Elderly or TransADE, to match increases in federal transit funding; and

WHEREAS, this expansion of service addresses coordinated transportation options available to Montana's transit-dependent residents."

- END -

Committee Vote:

Yes 8, No 3

Fiscal Note Required *K*

411518SC.ssc



SENATE STANDING COMMITTEE REPORT

February 23, 2007

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 339** (first reading copy -- white) **do pass**.

Signed: *Kim Gillan*
Senator Kim Gillan, Chair

- END -

Committee Vote:

Yes 6, No 5

Fiscal Note Required _____ *KJ*

411335SC.ssc

COMMITTEE FILE COPY

TABLED BILL

The **SENATE LOCAL GOVERNMENT COMMITTEE** TABLED **SB 292**, by motion, on **Thursday, February 22, 2007**.



(For the Committee)



(Secretary of the Senate)



(Time)

(Date)

February 26, 2007


Marigail Schreiner, Secretary


Phone: 444-4891


COMMITTEE FILE COPY

TABLED BILL

The **SENATE LOCAL GOVERNMENT COMMITTEE** TABLED **SB 427**, by motion, on **Thursday, February 22, 2007**.


(For the Committee)


(Secretary of the Senate)

_____, 
(Time) (Date)

February 26, 2007

Marigail Schreiner, Secretary

Phone: 444-4891

COMMITTEE FILE COPY

TABLED BILL

The **SENATE LOCAL GOVERNMENT COMMITTEE** TABLED **SB 361**, by motion, on **Thursday, February 22, 2007**.

Marigail Schreiner
(For the Committee)

KS
(Secretary of the Senate)

2:26
(Time) (Date)

February 26, 2007

Marigail Schreiner, Secretary

Phone: 444-4891

COMMITTEE FILE COPY

TABLED BILL

The **SENATE LOCAL GOVERNMENT COMMITTEE** TABLED **SB 325**, by motion, on **Thursday, February 22, 2007**.

Marigail Schreiner
(For the Committee)

57
(Secretary of the Senate)

 , 2-26
(Time) (Date)

February 26, 2007

Marigail Schreiner, Secretary

Phone: 444-4891

MONTANA STATE SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL VOTE

DATE 2/22/07 BILL NO. SB 398 NUMBER _____

MOTION: _____
SB 398 do pass amended

NAME	AYE	NO
ESP, JOHN (R)	✓	
GEBHARDT, KELLY (R)	✓	
HAWKS, BOB (D)	✓	
JUNEAU, CAROL (D)		✓
LAIBLE, RICK (R)		✓
MOSS, LYNDA (D)		✓
MURPHY, TERRY (R)		✓
O'NEIL, JERRY (R)	✓	
TROPILA, MITCH (D)	✓	
WILLIAMS, CAROL (D)		✓
GILLAN, KIM (D) - CHAIRWOMAN	✓	

6 5

MONTANA STATE SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL VOTE

DATE 2-22-07 BILL NO. 338 NUMBER _____

MOTION: do pass

NAME	AYE	NO
ESP, JOHN (R)	✓	
GEBHARDT, KELLY (R)	✓	
HAWKS, BOB (D)		✓
JUNEAU, CAROL (D)	✓	
LAIBLE, RICK (R)		✓
MOSS, LYNDA (D)	✓	
MURPHY, TERRY (R)	✓	
O'NEIL, JERRY (R)		✓
TROPILA, MITCH (D)	✓	
WILLIAMS, CAROL (D)		✓
GILLAN, KIM (D) - CHAIRWOMAN		✓

6 5

MONTANA STATE SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL VOTE

DATE 2/22/07 BILL NO. 427 NUMBER _____

MOTION: as amended

NAME	AYE	NO
ESP, JOHN (R)		✓
GEBHARDT, KELLY (R)		✓
HAWKS, BOB (D)	✓	
JUNEAU, CAROL (D)	✓	
LAIBLE, RICK (R)		✓
MOSS, LYNDY (D)	✓	
MURPHY, TERRY (R)		✓
O'NEIL, JERRY (R)		✓
TROPILA, MITCH (D)		✓
WILLIAMS, CAROL (D)	✓	
GILLAN, KIM (D) - CHAIRWOMAN	✓	

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MONTANA STATE SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL VOTE

DATE 2/22/07 BILL NO. SB 451 NUMBER _____

MOTION: SB 451 as amended

NAME	AYE	NO
ESP, JOHN (R)		✓
GEBHARDT, KELLY (R)	✓	
HAWKS, BOB (D)	✓	
JUNEAU, CAROL (D)	✓	
LAIBLE, RICK (R)		✓
MOSS, LYNDY (D)	✓	
MURPHY, TERRY (R)	✓	
O'NEIL, JERRY (R)		✓
TROPILA, MITCH (D)	✓	
WILLIAMS, CAROL (D)	✓	
GILLAN, KIM (D) - CHAIRWOMAN	✓	

8 3

MONTANA STATE SENATE
2007 LEGISLATURE

LOCAL GOVERNMENT

ROLL CALL VOTE

DATE 2-22-07 BILL NO. SB 339 NUMBER _____

MOTION: do pass

NAME	AYE	NO
ESP, JOHN (R)	✓	
GEBHARDT, KELLY (R)	✓	
HAWKS, BOB (D)		✓
JUNEAU, CAROL (D)		✓
LAIBLE, RICK (R)	✓	
MOSS, LYNDA (D)		✓
MURPHY, TERRY (R)	✓	
O'NEIL, JERRY (R)	✓	
TROPILA, MITCH (D)	✓	
WILLIAMS, CAROL (D)		✓
GILLAN, KIM (D) - CHAIRWOMAN		✓

6 5

According to Senate Rule 30-70 (13) (f) , a committee member may vote by proxy using a standard form.

I, the undersigned, hereby authorize Senator Mass

Senate Local Committee

held on _____, 2007.

SB 398 NO

Carl J. Jura
SB 395 RD

Callor
451 cm d

Coral Hickman

SENATOR
STATE OF MONTANA

SB 395
No

**MONTANA STATE SENATE
2007 LEGISLATURE**

LOCAL GOVERNMENT

VISITOR REGISTER

DATE 2 - 22 - 07

BILLS BEING HEARD TODAY _____

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Myra Shultz	544-3390	JPIA / MACO	527	X	
SUSIE BROWNING	288-3546	GRANITE Co.	527	X	
MIKE OPAR	442-9726	RES	503	X	
Lyn Helgeson	227-8207	Montana Transit Assoc	292		X
Charlie Jones	449-4075	MACDS	292		X
Steve Wilson	587-6163	GALLATIN COUNTY	503	X	
Cary Hegreberg	2-4162	Contractors ASSO.	398	X	
Gilda MARILIS	581-7357	Gallatin County	503	X	
Judson Davis	439-5209	L & C County	526	X	
M. S. KAKUK	554-0515	MT CONTR ASSO	SB398	✓	
LINDA STOLL	443-9070	MISSOULA COUNTY	SB398		✓
"	"	" ? MT ASS'N OF PARTNERS	SB527	✓	
Gordon Morris	439-5209	L & C. County	SB527	✓	
Janet Ellis	443-3949	MT Audubon	SB398		✓
TIM DAVIS	449-6086	MSGC	SB26	✓	
Gleny Appel	443-4032	MT Residents	SB527		✓
AROLD BLAIR	4-4360	MACO	527	X	
✓	✓	✓	398		✓

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



FARMERS

Madam Chairwoman and Members of the Senate Local Government committee,

I would like to reiterate concerns that I raised during testimony as well as provide additional comments that I was not able to address due to the limited time available for this hearing.

Farmers Insurance Group of Companies insures approximately 37,000 homeowners in the state of Montana. We cannot support SB 451 as it is current form. After listening to the sponsor and proponents we appreciate the concerns brought the Cities but ask that the committee consider the major disruption we believe this bill would cause to your constituents should they suffer a fire loss.

The bill seeks to further interpose government into a private contract between an insured, *you and your constituents*, and an insurer. We have a number of obligations to our insureds that are spelled out in the insurance contract as well as the body of law stipulated in Title 33, the insurance code.

The bill does not provide a definition for damaged or destroyed by fire. Is an insurer obligated to hold 25% of the insurance proceeds on partial losses, more substantial losses where the home is uninhabitable or only total losses while we wait to see if someone will be declaring the loss a "danger to the public"?

What are the criteria for local officials declaring the property a "danger to the public"? There is nothing in this bill to address or prevent a myriad of different local rules that leave fire victims up in the air and settlement process stalled as we attempt to sort out if a lien will or will not be placed on the property.

The bill potentially slows the repair process as the homeowner must now seek the approval of the local municipality to negotiate the insurance proceeds to pay contractors for repairs. The bill further fails to spell out to whom the homeowner must go to for the approval to get the lien removed so they can get the total proceeds for repairs.

Many homeowner policies have internal limitations on the amount of coverage available to an insured for debris removal. The statutory lien of 25% of the fire insurance proceeds could exceed the amount of coverage extended by the insurer for debris removal. Does this bill now hold the victim of a fire hostage to a local government for monies that would be used to repair the property?

The bill does not provide for notification to the insurer of the 'declaration' by local officials. New section 2 appears to shift responsibility to insurers to track down the status of all fire losses that they might have out of a municipality on the list noted in Section 2 (2). Unknowing failure by the insurer to honor the lien could be determined to be in violation under title 33 and subject to administrative action including fines and/or

possible payments in excess of the policy limits of the coverage the insured paid for. Should this bill go forward, the municipality should be obligated to notify the insured and insurer of the lien. It should not be the insurers obligation to seek the declaration.

Finally if it is the committees belief that this bill should go forward, I would ask that an amendment be added that hold the insurer harmless for actions that might be brought by an insured and/or mortgagee who disagrees with the determination of the local officials. The local government are interjecting themselves into a contract creating potential conflict of interest between an insured and their insurer for which they need to take full financial responsibility.

I would like to leave the committee with a number of questions that I feel go to the root of the debate. It was asked at the podium, what is the scope of this problem? How often does this occur? Is this a problem caused primarily by large commercial buildings in the cities or are they the average homeowner risks?

Is this bill the approach that the legislature wishes to enact, affecting a great number of Montanans that have just suffered a shocking fire loss, or is there a more surgical approach to get to the few scofflaws that have left the Cities with a clean up problem?

We ask that Senate Local Government Committee give **SB 451 a Do Not to Pass** recommendation.

Dwight Easton
Farmers Insurance Group of Companies

LAW OFFICES

**Keller, Reynolds, Drake,
Johnson and Gillespie, P.C.**

THOMAS Q. JOHNSON
RICHARD E. GILLESPIE
JACQUELINE T. LENMARK
JOE SEIFERT
GREGORY A. VAN HORSSSEN
CHARLES G. ADAMS
DANIEL J. WHYTE*
PETER FUNK

*ALSO LICENSED IN IDAHO

GUARDIAN BUILDING - 3RD FLOOR
50 SOUTH LAST CHANCE GULCH
HELENA, MONTANA 59601

MAILING ADDRESS
P. O. BOX 598
HELENA, MONTANA 59624

OF COUNSEL
P. KEITH KELLER

PAUL T. KELLER ((907-2003)
GLEN L. DRAKE ((927-2001)

TELEPHONE (406) 442-0230
FAX (406) 449-2256
E-MAIL: firm@kellerlawmt.com

February 22, 2007

Senate Local Government Committee
Montana State Capitol
Helena, Montana 59620

Re: SB 451 - Liability for cleanup of insured damaged property

Madam Chair and Committee Members:

On behalf of State Farm Insurance Companies in Montana, please consider this my supplemental testimony in opposition to SB 451. You may recall that the hearing on this bill was shortened due to a very busy schedule that particular day. I indicated that, in the interest of time, I would provide this supplemental testimony.

SB 451 represents an extreme intrusion into the contractual relationship between an insurer and its premium paying customer. Many of you know that you pay premiums (sometimes for years and years) to protect against a catastrophe. Both you and your insurance company know that, when a catastrophe occurs, you will desperately need the proceeds of the insurance policy for which you have paid premiums. Further, you are entitled to those proceeds in a timely fashion as you begin to make decisions to deal with the catastrophe.

SB 451 would apply to commercial and residential situations. In many of these situations, lenders are involved. When lenders are involved, they generally require insurance coverage to protect their collateral, in this case the building. Under SB 451, a lender will never know if the coverage that is in place will adequately cover the outstanding loan amount because of the potential 25% lien. SB 451 would seemingly require the lender in that situation to insure the residence for 125% of its value - to my knowledge, an impossibility in the insurance market.

SB 451 would place the insurance company, which has made a promise to pay a certain amount in the event of a disaster, in an impossible spot regarding the pay out of the proceeds. If SB 451 is made law, insurers would be best advised to first pay proceeds into the court and then have the court sort out where the money goes and in what amounts.

SB 451 will also prevent needed repairs. The bill doesn't apply only to total losses. It applies to damaged buildings as well. So, under SB 451, if a building were declared a public hazard, the municipality would keep 25% of the repair cost until certain conditions were met. I submit to you that this is not what we as insurance consumers expect when we purchase insurance. We certainly don't expect to have to come up with 25% of a repair cost after paying years of insurance premiums.

I am told that this bill arises from 5 incidents which occurred over the past 5 years. While the "problem" may seem large to the communities who experienced it, I respectfully submit that the problem is not widespread enough to merit a statewide law which interferes with an insured person's contractual rights.

Please give SB 451 a Do Not Pass recommendation.

Respectfully,

A handwritten signature in black ink, appearing to read 'G. Van Horssen', with a stylized flourish at the end.

Gregory A. Van Horssen